

Amendment No. 1 to HB0266

Armstrong
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1176

House Bill No. 266*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 26, is amended by adding the following as a new section:

71-5-2604.

(a) It is unlawful for any person, who is a TennCare enrollee, to intentionally fail to disclose to a physician from whom the person obtains a controlled substance, or a prescription for a controlled substance that the person has received either the same controlled substance or a prescription for the same controlled substance, or a controlled substance of similar therapeutic use or a prescription for a controlled substance of similar therapeutic use, from another practitioner within the previous thirty (30) days.

(b) Any person who violates section (a) commits a Class D felony if he or she used TennCare to pay for either the physician visit or visits or for payment of the prescription medications obtained in violation of section (a).

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 5, Part 26, is further amended by adding the following as a new section:

71-5-2605.

(a) A person is guilty of the offense of criminal diversion when he or she knowingly:

(1) Transfers, delivers or facilitates a transfer or delivery of a prescription medication or device obtained through the TennCare program in exchange for anything of value; or

(2) Receives or facilitates the receipt of a prescription medication or device obtained through the TennCare program in exchange for anything of value.

(b) A person who commits criminal diversion of prescription medications or devices obtained through the TennCare program commits a Class D felony.

(c) The following definitions are applicable to the offense established by subsection (a) of criminal diversion of TennCare prescription medications or devices:

(1) "Prescription medication or device" means any article for which a prescription is required in order to be lawfully sold, delivered or distributed by any person authorized by law to dispense such prescription medication or device when said prescription medication or device is obtained through the TennCare program.

(2) "Prescription" means a direction or authorization by means of a written prescription form or an oral prescription which permits a person to lawfully obtain a prescription medication or device from any person authorized to dispense such prescription medication or device when said prescription is obtained through the TennCare program.

(3) "Value" is not limited to monetary value and includes anything else of value exchanged for prescription medications, medications or devices obtained through the TennCare program.

(d) The provisions of this section shall not apply to:

(1) A duly licensed physician or other person authorized to issue a prescription acting in good faith in the lawful course of his or her profession; or

(2) A duly licensed pharmacist acting in good faith in the lawful course of the practice of pharmacy.

SECTION 3. This act shall take effect upon July 1, 2005, the public welfare requiring it.